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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/520,711	08/29/95	SUMNER	SU-1443C

34M1/0126  
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EXAMINER
BRINSUN, P

ART UNIT	PAPER NUMBER
3407	

DATE MAILED: 01/26/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
08/520,711

Applicant(s)  
Glen R. Sumner

Examiner  
Patrick F. Brinson

Group Art Unit  
3405



☒ Responsive to communication(s) filed on 5 Nov 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 21-48, 52, and 53 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 23 and 53 is/are rejected.

☒ Claim(s) 21, 22, 24-48, and 52 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 10

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

### DETAILED ACTION

1. Applicant's election without traverse of Group I, claims 52, 53, and 21-48 in Paper No. 11 is acknowledged.

#### *Claim Rejections - 35 USC § 112*

Claim 23 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 recites the insulating layer being more than about 3/4" thick, however claim 53 previously recites a thickness of 1/2". This is indefinite claim language. Claim 53 should perhaps be amended to recite "...at least 1/2" thick...".

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 53 is rejected under 35 U.S.C. 102(b) as being anticipated by **Gzinski**.

The patent to **Gzinski** discloses an insulation material having a bituminous composition containing polyurethane polymer which can be applied to an expanded perlite. The coated perlite is distributed onto the frozen substrate by any convenient manner, with the typical coated perlite having a thermal conductivity, "K" factor, of

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about 0.46 BTU/hr/sq.ft./°F/in thickness which is greater than the 0.12 recited in claim 1. Col. 11 discloses that this composition can be used on pipelines.

*Allowable Subject Matter*

3. Claims 21, 22, 24-48 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claim 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **PATRICK F. BRINSON** whose telephone number is (703) 308-0111.

**PATRICK F. BRINSON**  
**PRIMARY EXAMINER**  
**GROUP 3400**

P. F. Brinson  
January 18, 1998